

The Second Division consisted of the regular members and in addition Referee T. Page Sharp when award was rendered.

(International Association of Machinists and Aerospace
(Workers
Parties to Dispute: (
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. Claim for thirty-five (35) days pay at the pro rata rate in behalf of Machinist C. S. Seabourne due to the Carrier arbitrarily and capriciously removing him from service after investigation February 2, 1984.
2. Grievance for the Carrier to remove all references to the above from C. S. Seabourne's personal record.
3. Simultaneously removing the fifteen (15) days deferred suspension from the personal record of Machinist J. M. Smith and all references thereto which were assessed at the same time in the same manner.
4. Carrier failed to give Claimants a fair and impartial investigation which is contrary to Rule 32 on the controlling Agreement.

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimants were working on a Diesel Engine in the Carrier's Settegast Locomotive shop at Houston, Texas. Their job performance on that date led to an Investigation in which they were charged with:

"Report . . . for formal investigation to develop the facts and place responsibility, if any, in connection with your failure to properly perform your duties as Machinists while applying main bearings to Locomotive 2235 on January 25, 1984, on the 7:00 AM to 3:00 PM Shift."

As a result of the evidence adduced at the Investigation, the Investigating Officer found that the Claimants had not properly performed their duty. Because of the relative degree of complicity, Claimant Seabourne was assessed a five day suspension and Claimant Smith was assessed a fifteen day deferred suspension. The five day suspension of Claimant Seabourne activated a previously deferred thirty day suspension.

The Claimants were assigned the function of replacing main bearings on a Diesel Locomotive. They proceeded successfully until they replaced the lower bearings of one of the wheels. As is the normal routine, they ran an idle speed check and discovered that the bearings on one of the wheels ran hot. They were directed to replace the bearings, which they did. The result of the malfunction was to further delay operation of the locomotive, to have to discard the bearing, and to incur extra labor for the replacement.

The testimony from the Investigation concerned primarily the mechanical function of replacing bearings. Both of the Claimants had performed the function numerous times. One was positioned on one side of the wheel and the other was across from him. Testimony revealed that during the course of replacing the lower bearings, the upper bearings slipped. The Claimants placed the bearings into what they believed to be the proper position and finished the job.

Claimant Seabourne admitted that the bearings had been improperly applied, a fact obviated by the idle check. Both Claimants testified that it was difficult to see the bearings without the aid of a mirror. There was testimony that the tools were not of the more recent vintage and that the job is difficult.

There can be no doubt that the job was improperly done. The Claimants knew that the upper bearing had slipped and testified that they believed that it had been sufficiently restored. The real issue of a competent job revolves around the thoroughness of the check once the bearings had been put into place. Upon examination by his representative Claimant testified:

"Q. Mr. Seabourne, would it be possible for Mr. Smith to have seen that bearing on his side, the crank case, without the aid of a mirror?

A. As it was rolled out?

Q. Yes.

A. I don't believe so.

Q. In view of the starter obstruction, was it possible to have seen it in place from your side of the crank shaft without the aid of a mirror, was there a mirror available?

A. Yes sir you can run down an electrician and possibly borrow a mirror, if you need it necessarily. They don't have them readily available in the tool room. We don't have a proper place to keep them, half of them are broken and you can't use a broken mirror."

Based upon the testimony in the Transcript, much of it from the Claimants, this Board can find nothing in this record that would allow us to overturn the Findings of the Investigating Officer. He found that the charge of failure to properly perform their duties had been substantiated. We cannot say that this finding was arbitrary or capricious or not supported by facts.


The Investigating Officer recognized that Claimant Smith was not in as favorable a position to observe the position of the bearings and took this into account in assessing discipline. The fact that the five day suspension activated the deferred thirty day suspension is not a fact that this Board can consider. We can only look at the proof of the instant Claim and evaluate the discipline assessed for the violation. We do not find that the discipline meted out was disproportionate to the offense.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 27th day of August 1986.